

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

OCIE WATT AND DIANE WATT,
Plaintiffs,

VS.

WAL-MART, INC., AND MURPHY
USA,
Defendants.

§
§
§
§
§
§
§

CIVIL ACTION NO. 6:20-cv-00568

JURY TRIAL REQUESTED

NOTICE OF REMOVAL

Defendant **WAL-MART, INC.**, (hereinafter “Defendant”), files this Notice of Removal of the above-styled action pursuant to 28 U.S.C. § 1446(a) and would respectfully represent and show unto this Court the following:

A. Introduction

1. Defendant has filed its Civil Cover Sheet pursuant to Local Rule 3.1 and Local Rule 81.1. *See Exhibit A.*

2. On or about May 18, 2020, Plaintiffs **OCIE WATT and DIANE WATT** (“Plaintiffs”) initiated the state court lawsuit against Defendant in the 146th Judicial District Court of Bell County, styled *Ocie Watt and Diane Watt v. Wal-Mart, Inc. and Murphy USA*; Cause No. 317,475-B (the “State Court Action”). In the State Court Action, Plaintiffs alleged a cause of action for false imprisonment against Defendant. In addition, Plaintiffs seek to recover damages of any kind, penalties, court costs, expenses, prejudgment and attorney fees. *See Plaintiffs’ Original Petition*, attached hereto as **Exhibit B**.

3. The attorneys involved in the action being removed are listed as follows:

Party and Party Type

Attorney(s)

Ocie Watt - Plaintiffs
Diane Watt

Jay R. Beatty
Texas Bar No. 01992450
MICHALK, BEATTY & ALCOZER, L.P.
3106 South W.S. Young Drive
Building D, Suite 401
Killeen, TX 76542
Phone: 254-526-3024
Fax: 254-526-2545
Email: jbeatty@mbaattorneys.com

Wal-Mart, Inc. - Defendant

Brett H. Payne
Texas Bar No. 00791417
WALTERS, BALIDO & CRAIN, L.L.P.
9020 N. Capital of Texas Highway
Building II, Suite 225
Austin, Texas 78759
Phone: 512-472-9000
Fax: 512-472-9002
Email: paynevfax@wbclawfirm.com

Murphy USA - Defendant

David P. Boyce
Texas Bar No. 02759770
WRIGHT & GREENHILL, P.C.
900 Congress Avenue, Suite 500
Austin, TX 78701
Phone: 512-476-4600
Fax: 512-476-5382
Email: dboyce@w-g.com

4. The name and address of the court from which the case is being removed is as follows:

146th Judicial District Court
The Honorable Jack Jones
P.O. Box 324
1201 Huey Road
Belton, Texas 76513
Phone: (254) 933-6737
Fax: (254) 933-5978

B. The Notice Of Removal Is Timely

5. Defendant's agent was served with citation and a copy of Plaintiffs' Original Petition on or about May 29, 2020. *See Exhibit C.* Pursuant to 28 U.S.C. § 1446(b), Defendant's Notice of Removal was filed within thirty (30) days after receipt by Defendant, through service or otherwise, of a copy of an initial pleading from which it may first be ascertained that the case is one which is or has become removable.

C. Complete Diversity & Amount In Controversy Is Over the Threshold

6. Pursuant to the State Court Action, Plaintiffs Ocie Watt and Diane Watt are individuals residing in Texas.

7. Defendant Wal-Mart, Inc. is now, and was at all times relevant hereto, a foreign for-profit corporation which owns and operates the business commonly known as Wal-Mart in Bentonville, Arkansas. Defendant's corporate headquarters, including officers and directors, is located at 702 S.W. 8th Street, Bentonville, Arkansas 72716-8312. Defendant's registered agent, upon whom Defendant may be served with process, is CT Corporation System, located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Co-Defendant Murphy USA is now, and was at all times relevant hereto, a foreign for-profit corporation which owns and operates the business commonly known as Murphy USA in El Dorado, Arkansas. Co-Defendant's corporate headquarters, including officers and directors, is located at 200 E. Peach Street, El Dorado, Arkansas 71730.

9. In light of the foregoing, the parties are of completely diverse citizenship. *See* 28 U.S.C. §§ 1332(a), 1332(c)(1) 1441(b).

10. Further, the case involves an amount in controversy of more than \$75,000. *See* 28 U.S.C. § 1332(a). A court can determine that removal is proper from a plaintiff's pleadings if plaintiff's claims are those that are likely to exceed the jurisdictional amount. *See Allen v. R&H*

Oil & Gas., Co, 63 F.3d 1326, 1335 (5th Cir. 1995); *De Aguilar v. Boeing Co.*, 11 F.3d 55, 57 (5th Cir. 1993). In the State Court Action, Plaintiffs allege they seek “monetary relief of not less than \$200,000 but not more than \$1,000,000.” See **Exhibit B**. Thus, the amount in controversy in the instant case meets the requirements for removal.

11. Copies of all pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a). See **Exhibit D**.

D. Basis for Removal

12. Because this is a civil action of which the District Courts of the United States have original jurisdiction, this case may be removed by this Court pursuant to 28 U.S.C. § 1446(b). Further, because Plaintiffs are citizens and residents of Texas, Defendant’s principal places of business are located in Arkansas, and the amount in controversy exceeds \$75,000.00, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1132. As such, this removal action is proper.

E. Filing of Notice with State Court

13. Promptly after filing this Notice of Removal, Defendant will give written notice of the removal to Plaintiffs through their attorney of record and to the clerk of the state court action.

F. Consent of Co-Defendant

14. Upon conferring with Counsel for Co-Defendant Murphy USA, Co-Defendant consents to the removal of this case to federal court.

G. Prayer

15. **WHEREFORE, PREMISES CONSIDERED**, Defendant Wal-Mart, Inc. requests that this Court proceed with the handling of this cause of action as if it had been originally filed herein, that this Court make such orders, if any, and take such action, if any, as may be

necessary in connection with the removal of the state court action to this Court, and that they have such other and further relief to which they may show themselves justly entitled.

Respectfully submitted,

BY: /s/ Brett H. Payne
Brett H. Payne
Texas Bar Number 00791417
WALTERS, BALIDO & CRAIN, L.L.P.
Great Hills Corporate Center
9020 N. Capital of Texas Highway
Building II, Suite 225
Austin, Texas 78759
Phone: 512-472-9000
Fax: 512-472-9002
Email: paynevfax@wbclawfirm.com

**ATTORNEY FOR DEFENDANT
WAL-MART, INC.**

CERTIFICATE OF SERVICE

This is to certify that on the 26th day of June, 2020, a true and correct copy of the above and foregoing was forwarded to all counsel of record in accordance with the Federal Rules of Civil Procedure.

Jay R. Beatty
MICHALK, BEATTY & ALCOZER, L.P.
3106 South W.S. Young Drive
Building D, Suite 401
Killeen, TX 76542
Phone: 254-526-3024
Fax: 254-526-2545
Email: jbeatty@mbaattorneys.com

**COUNSEL FOR PLAINTIFFS
OCIE WATT & DIANE WATT**

David P. Boyce – 02759770
WRIGHT & GREENHILL, P.C.
900 Congress Avenue, Suite 500
Austin, TX 78701
Phone: 512-476-4600
Fax: 512-476-5382
Email: dboyce@w-g.com

**COUNSEL FOR CO-DEFENDANT
MURPHY USA**

/s/ Brett H. Payne
BRETT H. PAYNE